

REMARKS

Applicant requests reconsideration of the application in light of the following amendments and remarks. It is believed that this response overcomes any objections or rejections to these claims and puts them in condition for allowance.

The drawings have been corrected according to the Examiner's request: Figures 1 and 3 are now designated as Prior Art on the attached replacement sheets.

Claims 1-31 were rejected under 35 U.S.C. §112 for failing to comply with the enablement requirement. The Office Action stated that the specification does not describe how comparing phase differences with a predetermined phase difference profile determines the availability of a communication channel. The specification describes how this occurs and enables one of ordinary skill in the art to practice this aspect of the invention on page 10, second full paragraph, through page 12, first full paragraph. Specifically, the full paragraph on page 11 discloses how a characteristic histogram is generated by taking phase measurements at a certain particular offset. It is apparent from the specification that a histogram, as used here, is a phase difference profile as recited in the claims. It discloses how this characteristic histogram can be used with a different window function to decrease the time and power consumption of channel qualification operations, or determining the availability of a channel, as claimed. The last paragraph on page 11, and the first full paragraph on page 12 further discuss the predetermined histogram of expected phase differences. This part of the specification shows how the availability is determined by the claimed elements, and that there is a predetermined phase profile of a particular offset that determines the availability of the communication channel.

To the extent that the Examiner is asking for an explanation of the theory as to how the device works, a disclosure of the underlying theory of operation is not required by the rules. Applicant is only required to disclose how to make and use the invention so that one of ordinary

skill in the art would be able to understand how to do so without undue experimentation. Applicant submits that the specification meets this requirement.

Claims 1-4, 8, 9, 11-18, and 26-31 were rejected under 35 U.S.C. 103(a) as being unpatentable. Claims 1-4, 8, 9, 18, and 28 have been cancelled in an effort to expedite prosecution. Claims 11-17, have been amended to include the subject matter of claim 5 that was indicated to be allowable. Claims 26, 27, and 29-31 have been amended to include the subject matter of claim 19 that was indicated to be allowable. Thus, amended claims 11-17 26, 27, and 29-31 should be allowed.

Claims 5-7, 10, and 19-25 were indicated to have allowable subject matter, but were objected to for being dependent on a rejected base claim. Claims 5, 10, and 19 have been amended to be in independent form in response to this objection, this also corrects the improper dependencies of claims 6, 7, and 20-25. Thus, these claims should be allowed.

Claim 28 was objected to for being a substantial duplicate of claim 1. This objection is moot in light of the claims cancellation.

New claims 32-34 are dependent on claim 5, which was indicated to have allowable subject matter. Thus, these claims should be allowed.

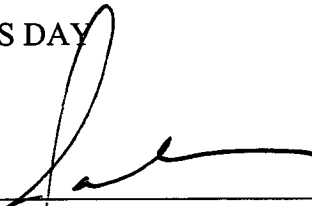
New claims 35-42 contain part of the limitations of claim 10, which was indicated to have allowable subject matter. These claims are also believed to be allowable.

New claims 43-49 contain part of the limitations of claim 22, which was indicated to have allowable subject matter. These claims are also believed to be allowable.

For the foregoing reasons, Applicants respectfully submit that the pending claims are in condition for allowance. The Examiner is, therefore, respectfully requested to pass this case to issue.

Respectfully submitted,

JONES DAY

A handwritten signature in black ink, appearing to read 'Joseph M. Sauer', written over a horizontal line.

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